



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/552,239

12/20/2005

Claude Juneau

06670/0203474-US0

8830

7278

7590

04/02/2008

DARBY & DARBY P.C.

P.O. BOX 770

Church Street Station

New York, NY 10008-0770

EXAMINER

GRANO, ERNESTO ARTURIO

ART UNIT

PAPER NUMBER

4147

MAIL DATE

DELIVERY MODE

04/02/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/552,239	<b>Applicant(s)</b> JUNEAU, CLAUDE	
	<b>Examiner</b> ERNESTO A. GRANO	<b>Art Unit</b> 4147	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6,7,9,10,12-15 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 3,5,8,11 and 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/07/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 10/07/2005 is being considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

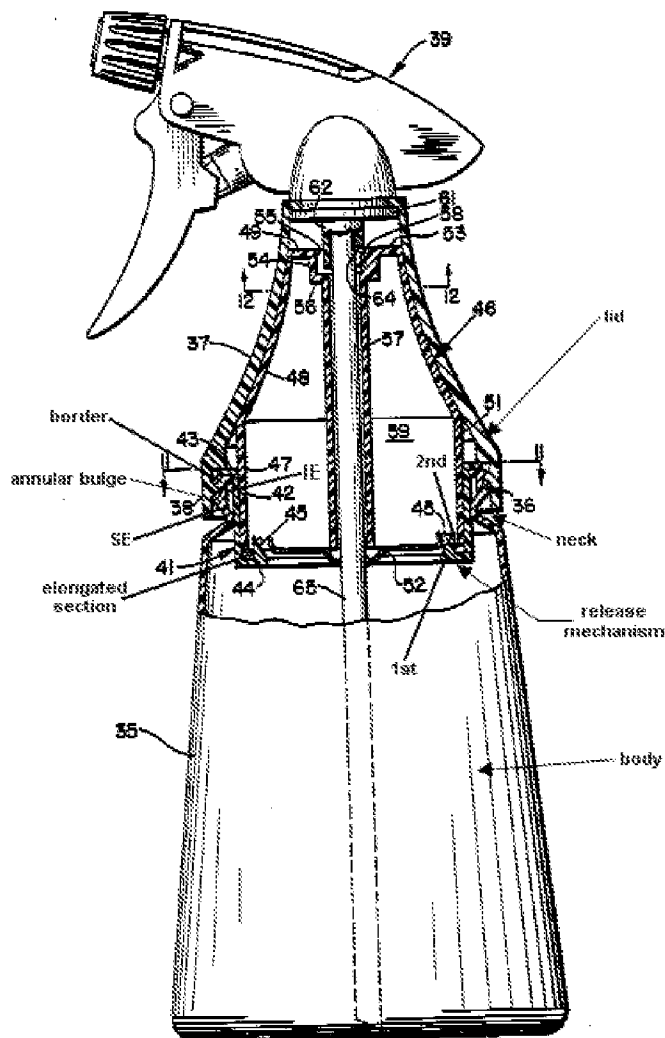
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, 10, and 21 rejected under 35 U.S.C. 102(b) as being anticipated by Klinganman (US Patent 4,088,246).

**FIG 10**



5. In re claim 1, with reference to figure 10, Klinganman ('246) discloses a device for a container provided with an opening and a flexible wall, the device comprising : at least one tank (46) insertable into the container (35) in an operating position; at least one release mechanism insertable into the container (35) in operating position, said release mechanism being capable of cooperating with the tank in order to connect the tank with the interior of the container (35) in response to a pressure exerted on said

Art Unit: 3745

release mechanism via the wall of the container(35); a support means (41) insertable into the container (35) to support in operating position the tank and the release mechanism in relation to the container (35), the support means (41) having a fastener (36) to fix the support means (41) on the container (35) close to the opening.

6. In re claim 2, with reference to figure 10, Klinganman ('246) discloses wherein the container opening is a neck, characterized in that the fastener (36) comprises an annular bulge capable of cooperating with an inferior edge (IE) of the neck and a collar (38) capable of cooperating with a superior edge (SE) of the neck, the bulge and the collar (38) allowing to fix the support means (41) on the container (35).

7. In re claim 4, with reference to figure 10, Klinganman ('246) discloses the release mechanism consists of an elongated section having a first end connected to a weakened section of the tank (52), whose rupture connects the tank (46) with the interior of the container (35), and a second end adjacent, in operating position, to the flexible wall of the container (35) to receive the pressure exerted via the wall of the container (35).

8. In re claim 10, with reference to figure 10, Klinganman ('246) discloses wherein the device consists of a material chosen in the group comprising metal, plastic, paperboard, glass and an alloy of metal. See column 4, paragraph 4 (last paragraph)

Art Unit: 3745

9. In re claim 21, with reference to figure 10, Klinganman ('246) discloses wherein the support means (41) is made of a flexible material. Column 2, lines 9 and 10

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 6, 7, 9, 12-15, 19, and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Klinganman (US Patent 4,088,246).

12. In re claim 6, with reference to figure 10, Klinganman ('246) as applied to claim 1 above, discloses the claimed invention except for at least one tank comprises between two and four tanks. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the tank (46) of Klinganman ('246) with four smaller tanks to align with the four projections (45), since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Art Unit: 3745

13. In re claim 7, with reference to figure 10, Klinganman ('246) discloses the release mechanism consists of an elongated section having a first end connected to a weakened section of the tank (52), whose rupture connects the tank (46) with the interior of the container (35), and a second end adjacent, in operating position, to the flexible wall of the container (35) to receive the pressure exerted via the wall of the container (35).

14. In re claim 9, with reference to figure 10, Klinganman ('246) discloses wherein the release mechanisms are distributed, in operating position, regularly along the wall of the container (35).

15. In re claim 12, with reference to figure 10, Klinganman ('246) discloses the a container comprising a body and a lid, characterized in that the fastener (36) comprises a border capable of cooperating with a superior edge of the container, the border allowing to fix the support means (41) on the container (35).

16. However, Klinganman ('246) fails to disclose wherein the container is a can.

17. Since applicant has not disclosed that including a can as the container solves any stated problem or is for any particular purpose and it appears that container of Klinganman ('246) would perform equally well as a can, It would have been an obvious matter of design choice to include a can as the container Klinganman ('246).

Art Unit: 3745

18. In re claim 13, with reference to figure 10, Klinganman ('246) discloses wherein the support means (41) comprises at least one housing (42) to place at least one tank which, in operating position, is adjacent with the flexible wall.

19. In re claim 14, with reference to figure 10, Klinganman ('246) discloses wherein at least one tank comprises a perforable flexible wall. See column 4, paragraph 4 (last paragraph)

20. In re claims 15 and 20, with reference to figure 10, Klinganman ('246) discloses wherein the release mechanism consists of a tooth (45) having a first end (1<sup>st</sup>) fixed to the support means (41) and a second end (2<sup>nd</sup>) adjacent to the tank to perforate the tank and to connect it to the interior of the container (35) when said pressure is exerted.

21. However, Klinganman ('246) fails to disclose wherein the second end is a blunt end.

22. Since applicant has not disclosed that including a blunt end solves any stated problem or is for any particular purpose and it appears that second end (2<sup>nd</sup>) of Klinganman ('246) would perform equally well as a blunt end, It would have been an obvious matter of design choice to include a blunt end to the support means (41) of Klinganman ('246).

23. In re claim 19, with reference to figure 10, Klinganman ('246) as applied to claim 1 above, discloses the claimed invention except for at least one tank comprises



six tanks. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the tank (46) of Klinganman ('246) with six smaller tanks to align with six projections, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

### ***Allowable Subject Matter***

24. Claims 3, 5, 8, 11, and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Modderno (US Patent 3,255,926), Wright (US Patent 5,584,165), Bolduc (US Patent 4,893,730), Cronan (US Patent 3,718,235), and Krause et al. (US Patent 6,036,005) all disclose a container with an opening and a flexible wall with a tank inserted. Liebermann (US Patent 4,491,250), Klima et al. (US Patent 5,890,624), and Larkin (US Patent 4,614,267) all disclose a container with insertable tank.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERNESTO A. GRANO whose telephone number is (571)270-3927. The examiner can normally be reached on 9:00am - 4:00pm Mon.-Fri..

Art Unit: 3745

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on 571-272-4491. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ernesto A Grano  
Examiner  
Art Unit 4147

/Ninh H. Nguyen/  
Primary Examiner, Art Unit 3745  
03/31/08